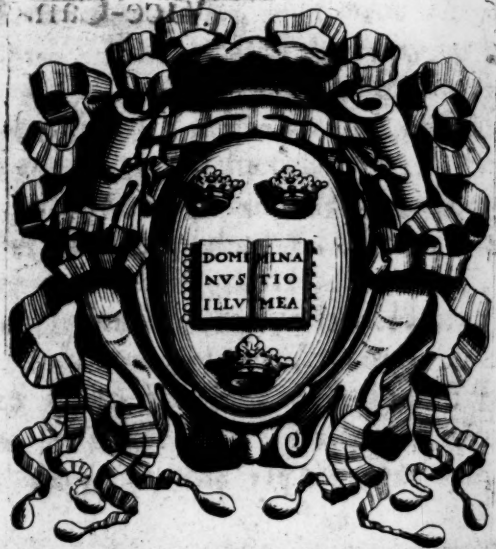
A DEFENCE OF THE RIGHTS and PRIVILEDGES OF THE *University of Oxford:*

CONTAINING,

1. An Answer to the Petition of the City of *Oxford.* 1649.
2. The Case of the University of *Oxford*; presented to the Honourable House of Commons. *Jan.* 24. 16$\frac{48}{49}$.



Oxford, Printed at the THEATER, 1690.

Imprimatur,

JONATHAN EDWARDS

Vice-Can. Oxon.

Mar. 31. 1690.

THE PREFACE.

THE *Priviledges of this Univerſity have been in ſo full, clear, and expreſſive words, granted to our Predeceſſours; and have ſince been us'd here with ſo much moderation, and prudence; That we, their ſucceſſours, might with reaſon have expected rather the happineſs of* enjoying *them, than the trouble of* maintaining *them. But ſo it happens, That thoſe very rights, which were deſignedly given to the Univerſity, as the beſt means of ſecuring our* peace, *and* quiet, *have frequently, by the malice of our Adverſaries, been made the occaſions of our* diſturbance. *Once at leaſt in every age, The Citizens have renew'd their complaints againſt us; which have all equally been founded on* no reaſon; *and conſequently have all alike met with* no ſucceſs. *It is remarkable, that nothing hath formerly been more* beneficial *to us, than theſe groundleſs complaints of the City; and that to* theſe *chiefly we* owe *almoſt all thoſe Charters, which we now enjoy. For when this contentious humour of the Citizens did thus in an unaccountable manner diſcover it ſelf, in the reigns of* Ed. 3*d.* Hen. 4*th.* Hen. 8*th. and* Car. 1*ſt. it did not only juſtify the prudence of their Anceſtours in granting us our ancient rights; but convinc'd thoſe ex-*

cellent Princes of a farther neceſſity of giving greater, and more unqueſtionable *Priviledges. Thus have we been oblig'd to* their bad manners *for* our good laws; *and do faithfully keep an exact regiſter of their* contentions, *by the date of our* Charters. *We have publiſh'd therefore theſe two following Treatiſes; not only out of* reſpect *to our ſelves; but out of* kindneſs *to the City: For when once the moſt ſober, and judicious part of them ſhall be convinc'd, That their demands are unreaſonable, and unjuſt; That ſome turbulent Men, under the popular pretence of defending the rights of the City, do only carry on their own deſigns, and intereſt, at the publick charge; It is impoſſible to conceive, That the Citizens will ſtill be impos'd on; and not find ſome better imployment for* their, *or rather (as it originally was) for* our *mony. At leaſt if they are reſolv'd to copy out the example of their Predeceſſours in* oppoſing *the Univerſity, They ſhould be ſo wiſe withall, as to have imitated their* Methods *of* oppoſing *it. Their Fathers took advantage of that lucky* Criſis *in* 1649; *When the Univerſity was obnoxious for its loyalty; when learning it ſelf was a crime; and when the Judges were as bad, as the Petitioners. This Effort was* unſucceſful *indeed but* well-deſign'd, *for which we may reaſonably perhaps accuſe them of* ingratitude, *but muſt* for once *acquit them of* folly. *But if the Citizens ſhall now again renew the ſame deſigns, when there is not a return of the like favourable juncture; It will be juſt-*

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ly ſuſpected that they are heirs only of their Fathers malice, but not of their cunning. *For can they think this a fit time to depreſs Learning, and Religion? Can they imagine, that thoſe Charters, which have been always given to us by the* beſt, *and* greateſt *of our Kings will not receive confirmation from their* preſent Majeſties? *Or that* this *Honourable* houſe *of* Commons *is leſs a Friend to* Learning, *and* Juſtice *than* the Wiſe Parliament *which firſt ratify'd our Charters? If not; if there be no ground for theſe ſurmizes now; we may probably think, That the Citizens will either wholly deſiſt; or expect a fairer opportunity of undermining their* Benefactours.

But what ſucceſs any diſcourſe may have, that applies it ſelf to the juſtice, *and* prudence *of the* City, *we dare not determine; More certain we are, That theſe Treatiſes will ſucceed in their other deſign, and will give full ſatisfaction to all* impartial, *and unprejudic'd* Readers. *The Articles of the City have all met with* plain, *and* direct *anſwers: The Charters, that we inſiſt on, are* nam'd, *and* pointed out; *and no ſubterfuge is taken in general expreſſions. The Matter of Fact will be abundantly juſtify'd by our Regiſters; The pretended difficulty in law, is, for the uſe of the City, made obvious to every capacity, and we ſubmit it to others judgments, whether the inferences, which are few, are not fairly drawn, and warranted by reaſon. For as the Cauſe it ſelf was ſuch, That it needed*

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no other advantage, than to be ſet in its true light; ſo was the dignity of the Body concern'd *ſo great, that it diſdain'd any aſſiſtance from ſophiſtry.*

The Nature of this work would not allow us the liberty of digreſſions and therefore it is ſtill *to be wiſh'd That all men, in a greater work, were diſtinctly inform'd of the* firſt riſe *of our Priviledges*; *of* the motives *upon which they were* firſt *given*; *and the* abſolute neceſſity *of the* continuance *of them*; *That they were acquainted with the* offences *of the City that* occaſion'd *our Charters*; *with the* ſignal *and* Extraordinary wiſdom *of thoſe Princes, that granted them*; *and laſtly with the* conſtant ſucceſs, *which, upon all conteſts with the Town*, attended, *and* confirm'd *them. For ſince above an Hundred volumes are printed beyond Sea concerning the* Rights *of* Univerſities *and The* Priviledges *of* Students; *It is to be hop'd, That we, who yeild not to any forrain Univerſity in the greatneſs of our Priviledges, will ſhow equall diligence, in the* juſt Hiſtory, *and* defence *of them. The only thing, that in all probability hath hitherto prevented their work, hath been the integrity, knowledge, and favour of the Judges; who, having uſually been bred among us, knew the Extent of our Priviledges; and have not ſuffer'd our rights to be examin'd by the unequal ſtandard of the immunities of mean Corporations. For as our* Charters *have been ſuch, as have left us no reaſon to envy the* forrain Authentick; *ſo have the* Year-Books

Books *hitherto abundantly ſupply'd the place of* Gloſſes, *and* Comments. *However, tho' we have no reaſon at preſent to doubt of the continuance of the ſame juſtice to us; we may reaſonably* deſire, *and yet probably not* need *an* exact Hiſtory *of* our rights; *as that, which tho' it might not be requiſite, as a* neceſſary ſupport; *would yet at leaſt be commendable as an* Ornament *of this Univerſity.*

April.

April. 6. 1649.

To the Supream Authority of the Nation, the Commons in Parliament Assembled

The Humble Petition of the Maior, Aldermen, Bayliffs, and commonaltie of the City of Oxon. *in the County of* Oxon.

Humbly Sheweth,

THAT they taking notice of the late memorable Acts of Parliament, made for regulating of the Privy Councel, and for taking away of the Court of Star-Chamber, the high Comission Court, and others of the like nature; and being thereby made sensible of your worthy intentions to disinslave the free born People of this Nation from all manner of Arbitrary Judicature or Power, and enable them to live like Freemen under the known Laws of this Land; are thereby at this present emboldned to make known unto you, the most intolerable sufferings and oppressions, which they for a long time past, and yet by an Arbitrary and unlimited power exercised over them by the University of *Oxon*, have under-gone, and at this time suffer, as by particulars hereunto annexed may appear:

And for redress whereof your distressed Petitioners humbly implore your gracious assistance.

And whereas your Petitioners at this present, partly through decay of trading, and partly through the long and daily payments, taxes, and quartering of Soldiers are very much impoverished, and their City abounding with such multitudes of poor people, that they are not able to relieve them without provision of a convenient stock wherewithall to set them on

work; for the raiſing whereof, there is a certain large *piece of ground*, called *Portmead*, lying near the ſaid City, wherein your Petitioners have the Inheritance, and the village of *Wolvercot* only Common of paſture therein by reaſon of vicinage, which being encloſed and leaſſed out for certain years would raiſe a convenient ſtock for the relief and ſetting on work of the ſaid poor. The which your Petitioners are very deſirous, and have much endeavoured to effect, but have been, and ſtill are hindred in theſe their pious, and good intentions, by the Inhabitants of *Wolvercot* aforeſaid; Albeit your Petitioners have been, and are willing to allow them a proportionable quantity of ground, to be allotted them out of the ſaid ground in lieu of their ſaid Common.

Your Petitioners likewiſe humbly pray, that they be enabled by Authority of this preſent Parliament, to encloſe, and demiſe for ſome competent number of years, the ſaid ground called *Portmead* for the uſe aforeſaid, leaving a proportionable quantitie of ground, or otherwiſe allowing ſome ſufficient recompence unto the ſaid inhabitants of *Wolvercot* in lieu thereof,

All which we refer to the wiſdom and judgment of this Honourable Houſe, humbly deſiring your ſerious and ſpeedy conſiderations and reſolutions herein, and to make ſuch order for your Petitioners relief, touching the premiſes, as you in your grave wiſdoms ſhall think meet and expedient:

And we ſhall ever pray, &c.

A Schedule of the Cities Grievances claimed at ſeveral times put in execution againſt them by the Univerſity.

1. THE Univerſity claimeth power to determine all controverſies whatſoever, between any perſons whatſoever, if one of the parties be a priviledged perſon (except in caſes of maim felony and freehold) and they claim allowance of their priviledges in all other Courts, without pleading of them, and without fee; and to try matters of fact without Jury, or without open examination of the witneſſes in the caſe, but only in private,

private, before a Regiſter, and proceed in an Eccleſiaſtical way, by citation, excommunication, and the like, contrary to the courſe of the Common Laws, and their ſentences are not grounded upon any certain Law, either Civil, Canon, Statute, or Common Law, but *ſecundum æquum & bonum*, and meerly Arbitrary, at the Will of the Chancellor, or his Vice-Chancellor, againſt whoſe ſentence, how unreaſonable ſoever, nor Writ of Error will be by them allowed, or other redreſs admitted, but only by appeal before themſelves, in their Convocation or Congregation, in which particular, the Citizens find themſelves much grieved, being by thoſe proceedings not only delayed, but oftentimes defeated of their juſt debts, without any redreſs at all.

2. Without any lawful power they take upon them to make Proclamations, thereby impoſing not only pecuniary mulcts, but alſo impriſonment upon ſuch perſons as ſhall not obey their matters contained in ſuch Proclamations, and this not only upon Citizens, but likewiſe upon all others, dwelling within five miles of *Oxon.*

3. They claim and exerciſe a power over the Citizens, to impoſe 40 *s.* upon any Citizen being found out of his houſe after 9 of the clock, albeit it be in the ſummer time; and albeit they be Conſtable in their ſearch for Fellons, upon purſuit of hue and cry; or Aldermen of the City, or Juſtices of the Peace, in conveying of Malefactors to the Goal, or the like, and for default of preſent payment of the 40 *s.* to ſend them to priſon, there to continue until ſatisfaction made to the Proctors.

4. They claim the ſole power of Licenſing of Ale-houſes, Brewers, and Maulſters, and uſually take for the making of Licences for Brewers to Brew, and for Maulſters to make Mault 17 *s.* 8 *d.* and take Recognizances of the Ale-houſe-keepers, but never return any of them to the Quarter Seſſions.

5. They have challenged to have power and *de facto* have exerciſed a power, to pull down the Citizens houſes of Habitation; and ſome of the Butchers Shambles within the City.

6. They take upon them power to diſ-common Citizens at their pleaſure, and to inhibite all priviledged perſons, to have

any commerce or trading with them; which power they have alſo exerciſed upon divers Citizens.

7. They exact from the Maior and ſixty two Citizens, an Oath for the maintenance of the Univerſity Priviledges; whereas many of their pretended Priviledges are meere Uſurpations and Inchroachments upon the Liberties of the City, which the Citizens by their Oaths are bound to preſerve.

8. They claim and exerciſe a power to enforce the Maior, and ſixty two Burgeſſes of the City, to come yearly to St. *Maries* Church on the tenth of *February* (called by them *Scholaſtims* day) to make an Oblation at the high Altar, of ſixty three pence for the ſlaughter of ſixty three Scholars, *tempore Ed.* 3. to procure a Maſs for the ſouls of the ſixty three ſlaughtered perſons; for the non-performance whereof, they give forth, That they will put a bond in ſuit, which the City in thoſe days entered into the Univerſity.

9. They claim a power to make By-laws, thereby to bind the Inhabitants of the City, which are meer ſtrangers, and were never called to the making of them.

10. They take upon them power to make new Officers, as Tole takers of Corn, and the like, and they conſtitute Coroners, which Office of Right belongeth to the City by their ancient Charters, and Uſage, time out of mind.

11. They claim Felons Goods, and Deodands, by their new Charter, albeit the City time out of memory hath enjoyed, and hath right unto them by their ancient Charters, as they conceive; and albeit, the City be at the charge of keeping of Felons, and of the delivery of them.

12. The Market, the Soyl, and the Streets belong to the Citizens, together with Toll, Stallage, and Picage, yet the Univerſity claimeth all theſe; and divers times by Proclamation alter the Market days, whereas the Univerſity have only the Clarkſhip of the Market, and the perquiſites, and profits thereof, belong to the City toward the feefarm Rent.

13. They ſet up divers Taverns in *Oxon*, and will not permit the City to ſet up any, contrary to the true intent of the Statute of 7. *Ed.* 6.

14. They

14. They claim power to ſet up trades within the City, and to authorize Forraigners to exerciſe any trade there, as Fully as a Freeman of the City, and that albeit ſuch Forraigner never ſerved as an Apprentice.

15. In caſe the City puniſheth any irregular Freeman for miſdemeanor, or make any By-law for regulating of ſuch miſdemeanor, they preſently become ſervant to ſome Maſter of Arts, or elſe to be an under Gardner to ſome Colledge, or Hall, and thereby exerciſe their Trades, in contempt of the City, and their By-laws, and refuſe to pay any payments with the City, except ſuch as ſhall be warrantable under the Seal of the Univerſity.

April. 30. 1649.

A Particular of the Grievances of the City of Oxon *againſt the* Univerſity *of* Oxon, *together with the reaſons thereof exhibited unto the Honourable Committee for the regulating the ſaid* Univerſity, *according to the directions of an Order of the ſaid Committee of the 26. of this inſtant April.* 1649.

1. *Grievance.* THat Scholars and Priviledged perſons draw Townſmen in ſuit to the Vice-chancellors Court for any matters whatſoever (except *Mayhem*, *Felony*, and *Freehold)* as well in caſes where they are Plaintiffs, as where they are Defendants: in which particulars the Citizens conceive they have juſt cauſe of complaint for diverſe reaſons.

Firſt, for that by the ancient Charter of *Hen.*1. *Hen.*2. *Edw.*3. and divers other ſubſequent Charters confirmed by act of Parliament and allowed by Juſtices in Eyre and in the Courts at Weſtminſter, they ought not to be impleaded out of their own Court, but to have their tryal in their own Court according to the Cuſtomes and uſages of *London*, for that they are by their Charters to enjoy the ſame liberties and cuſtoms, and the Perquiſites and Profits of their Court are parcel of their Fee-farme which would be left or at leaſtwiſe leſſened in caſe that their ſuits and tryals ſhould be in the Chancellors Court, as well where a priviledged perſon is Plaintiffe as Defendant: (there being at this preſent near about a third part of the Houſholders within the City priviledged by the Univerſity as is conceived.)

Secondly

Secondly, for that the proceedings in the Univerſity Court are by citation *Viis & modis*, Libell, Excommunication, and the like, and the ſentences of the Chancellor, or his Vice-chancellor, or Commiſſary, not confined or tyed to any certain Law, either Civil, Canon, or Common Law. But either according to any of theſe, or according to the Cuſtomes and Statutes of the Univerſity heretofore uſed or hereafter to be ordeined, or according to his and their beſt diſcretion, notwithſtanding any Statute whatſoever either made or to be made, againſt whoſe ſentence (be the ſame juſt or unjuſt) there is no remedy either by removing the cauſe to any of the Courts of Weſtminſter either of Law or equity or otherwiſe than before themſelves.

Thirdly, for that diverſe Citizens have commenced ſeveral ſuits in that Court both for juſt debts due unto them by bond, as alſo for inſufferable injuries committed againſt them by priviledged men after long and tedious ſuits of 3 or 4 years ſtanding, and much expence, have been deſtitute of any redreſs there at all.

Fourthly, for that (as the Citizens conceive) that Court and the order and manner of their proceedings conſiſteth not with the preſent Conſtitution of the Commonwealth or the Liberty of the People, this particular not only concerning the Citizens of *Oxon*, but all others who ſhall have any commerce or dealing with a Scholar or a Priviledged Perſon.

2. *Griev.* The Univerſity claimeth a power to impriſon, and to impoſe a mulct of 40*s*. upon any Citizen being out of his houſe after nine a clock at night without ſuch reaſonable cauſe as the Proctors or Vice-chancellor ſhall allow of, the Proctor having the benefit of the mulct: and this hath been exerciſed not only upon private Citizens but upon the publique Magiſtrates and Officers of the City, as Bailiffes, Conſtables, and the like, being in the execution of their offices to preſerve the peace, to purſue Hue and Cries, to keep watch and ward, Convey offenders to priſon by vertue of the Juſtice of peace warrants, to prevent eſcapes from the Goal, whereof the Bailiffes have the charge and the like, which the Citizens conceive to be a great Grievance contrary to the great Charter, and other Laws, to their

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Native and juſt liberties, the rather for that the five Aldermen and eight Aſſiſtants of the City, beſides what the Law of the Land require, are by their Ancient Charters and by their Oathes bound to ſearch for and apprehend Malefactors within the City as well by night as by day, Nevertheleſs the ſaid Citizens can deſire no leſs, but that if the Maior or any Officer of the City find any priviledged perſon diſorderly and irregular they may have power and liberty to ſecure them until they may be ſent to the Vice-chancellor or Proctor, and they to deal in like manner with the Citizens. But that the Univerſity ſhould impoſe ſuch a mulct and inflict impriſonment for Non-payment upon a Citizen that is abroad after ſuch a time about his lawful occaſions, and to make the Proctor judge in his own cauſe whether it was a lawful occaſion or not, he being to have the 40*s*. And for a civil man to goe to the Vice-chancellor for leave to be out of his houſe after nine of the clock or not to ſtirr abroad before 4 of the clock in the morning is conceived by us to be a greater tyranny than is fit for any freeman to beare.

3. *Griev.* That the Univerſity have heretofore reſtrained all Bakers and Brewers within the precincts of the City and Suburbs thereof to bake or brew within the City, except they firſt take Licence from the Univerſity, for which they challenge 17*s*. 8*d*, and alſo enforceth them to take an Oath to obſerve ſuch aſſize as the Vice-chancellor from time to time ſhall appoint, the which the Citizens conceive to be a Grievance and a burthen both in reſpect of the mony extorted from them, there being no ſuch ſumm of mony due by the Laws of this Land for ſuch licence, as alſo for that they conceive it moſt proper and peculiar for the City to ſet up and order Trades within the City where they ſerved as Apprentice, and for other reaſons hereafter mentioned in the Grievance concerning Trades being contrary to the Liberty of the People, and a priviledge no waies ſuitable or proper (as the Citizens conceive) for Scholars to pretend unto.

4. *Griev.* The Vice-chancellor heretofore hath by power pul-

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led down ſome Citizens houſes of habitation for which there as yet hath no ſatisfaction been made either to the Tenant or Tenants in poſſeſſion, or to the Citizens who had the inheritance thereof. As namely in particular the houſe of one *Tredwell*, then worth 10 *l. per annum*, and the houſe of one Maſter *Chambers*, worth 6 *l. per annum*, for which it is conceived the Univerſity ought to make ſatisfaction both to the Tenants and the City.

5. *Gr.* The Citizens conceive it to be a great preſſure and inconſiſtent with the Principles of charity, or the liberties of the people, or the Laws of the Land to inhibit all the Members or priviledged perſons of the Univerſity to have any commerce, trade, or dealing with ſuch Citizens as the Vice-chancellor or Proctors at their liberty ſhall diſlike, it being a means to breed enmity between neighbour and neighbour; and to hinder mutual amity between friend and friend, as alſo tending to a Monopoly of Trading, and done for the maintaining of ſome private intereſt, of meer will and power againſt the publique intereſt of the Cities Liberties. And alſo to the utter ruine and deſtruction at their pleaſure of any Citizen and his family in their Trade.

Touching the Oath that the Univerſity demandeth of the Maior and of the Citizens.

6. *Gr.* The Citizens take it as a grievance and burthen to their Conſciences, (which they hope the wiſdome and Piety of the Parliament will not ſuffer) to have an Oath impoſed upon them in General Tearms to maintain the Priviledges of the Univerſity, the Citizens not knowing what they are. And the Univerſity pretending all to be juſt which they claim; and beſides the Maior by his Oath is bound to maintain all the rights and liberties of the City, many of which do claſh and ſtand in oppoſition to divers of thoſe which the Univerſity claim.

7. *Gr.* The Citizens find themſelves very much agrieved that the Maior and 62 Citizens with him ſhould be compelled to come to St. *Maries* yearly upon the tenth day of *February* to make an oblation there at the high Altar of 63 pence for the

ſouls

ſouls of 63 Scholars or Priviledged perſons ſlaine in the time of *Edw.* 3*d.* This in the Original being groſs ſuperſtition and the memory and continuance of it to be totally aboliſhed without any memorial thereof to be obſerved: and therefore hope and deſire that one Indenture and one obligation of the penalty of 1000 markes entered into by the City unto the Univerſity in thoſe daies of ſuperſtition, for the continuance of that ſuperſtitious anniverſary, may be delivered up to the Citizens to be cancelled, and the obloquie put upon the Citizens by reaſon of this Ceremony quite aboliſhed, And whereas the Univerſity now ſaith that they will be content with the 5*s.* 3*d. per annum* and diſpenſe with the ſuperſtitious Ceremony, the Citizens deſire by the wiſdom and Authority of Parliament they ſhall be excuſed from any ſuch acknowledgment of that ſervile and ſuperſtitious nature. Not that we ſhould contend with the Univerſity for ſuch ſmall matters (towards whom we ever have, and ſhall reſpectively Comport our ſelves) but that we may not part with our liberties at any rate, nor beare witneſs againſt the truth.

8. *Gr.* The Univerſity claimeth power to make By-Laws to bind the Inhabitants of the City, and to lay both pecuniary mulcts and Impriſonment upon the breakers thereof, as upon Taylors that have made Gowns after other faſhions then have been ſet down in their Private orders, which the Citizens conceive to be an unjuſt and arbitrary practice, That they ſhould be bound by ſuch Laws as they never knew, nor never conſented to by themſelves or any repreſentative. And their eſtates and perſons ſhould be lyable to the pleaſure of others to whoſe Acts or Actions they are no ways Privy, and is as they conceive contrary to the fundamental Laws of this Land, and the liberty of freemen of this Nation.

9. *Gr.* The Univerſity claimeth Felon's goods and Deodands, which the Citizens take as a Grievance, for that by their Ancient Charters they are by apt words granted unto them. And moreover the Citizens have the Cuſtody and charge of the Gaol and of the Priſoners, and the power to deliver the Gaol

and lyable to all escapes; And it seemeth unreasonable that the Citizens should be at all the charge and the University to have all the profit, and such perquisites (besides for the reasons aforesaid) may seem not very proper nor convenient for Scholars to trouble themselves withal.

10. *Gr.* The University inhibiteth the City from setting up any Taverns within the City, or the selling of Wine by retaile, the which the Citizens conceive to be against the true meaning of the Stat. 7. *Edw.* 6. And against divers of the ancient Charters of the City, and therefore desire that this Grievance likewise may be redressed.

11. *Gr.* The University assumeth power to set up Trades within the City, and to authorize Forraigners to exercise Trades there, albeit they never serv'd as an Apprentice, the which the Citizens take as a great Grievance and oppression, It being granted unto them by divers and sundry ancient Charters and confirmed in Parliament, that no person or persons whatsoever, who are not of their Guild, shall set up any Trades or sell by Retaile with them, much less that such that have not served as Apprentices, nor are liable to performe duties or services of the Commonwealth, as they pretend.

The Citizens are willing that the University may enjoy and continue all just and due Priviledges, which either make for the advancement of Learning, or are fit for them to enjoy, but any priviledge or practice, which exalts it self above the power of the Civil Magistrate, which is founded upon superstition or Tyranny, or which is inconsistent with the freedom and just Immunities of a subject or free Citizen, they may hope, and earnestly pray may be by the wisdom and goodness of this Parliament quite abolished.

JULY 24. 1649.

THE

ANSWER

OF THE

CHANCELLOR, MASTERS, and *SCHOLARS* of the UNIVERSITY of OXFORD:

To the Petition, Articles of Grievance, and Reasons of the City of OXON.

According to the directions of an Order of the Honourable Committee, 21. of June 1649.

To the Petition.

WHereas the Petitioners charge the Univerſity with the exerciſe of an *Arbitrary* and *unlimited* power over them to their moſt intolerable ſufferings and oppreſſions, which they pretend they have for a long time undergone, and *at this time* ſuffer, (although the Petitioners by their Councel at ſeveral times before this Honorable Committee have acquitted the preſent Governors of the Univerſity from any ſuch charge, and although the Univerſity for many years now late paſt have ſuffered great wrongs, and diminutions of their juſt and ancient rights by the Petitioners, who have taken upon them to diſpoſſeſs them of ſome of them before complaint, and of others while their complaint is yet depending.)

We anſwer and ſay, *That the Univerſity neither hath exerciſed, nor does challenge the exerciſe of any arbitrary power or juriſdiction over the Citizens; But only ſuch juſt power as they are by Law and Cuſtome, confirmed by Act of Parliament, warranted unto.*

Concerning Port-mead.

1. We anſwer and deny that the Petitioners have the *inheritance* of the ſaid Meadow, but only a *right of Common*; and that divers Colleges of the Univerſity, and their Tenants, and other men, are (as we conceive) equally intereſſed with the Petitioners in *a right of Common* in that Meadow.

2. That the number of *poor People*, both now and heretofore abounding in the City, is very much occaſioned by the Petitioners illegal erecting of multitudes of *Cottages* upon the Town wall and Ditch, which they rent out to ſuch poor people, and thereby much enhance their own Revenues, to the prejudice and impoveriſhing of the Univerſity, by whoſe Free and charitable contributions thoſe poor are exceedingly relieved and maintained.

3. That if all the Charitable *donations* given to maintain the *Poor of Oxford* by ſeveral *Members of the Univerſity* were rightly imployed by the Petitioners to that end for which they were given, they could not want a convenient ſtock wherewithall to ſet them on work, as we conceive.

4. That the improvement deſired by the *incloſure of Port-mead* would not be only to the prejudice of the right of ſeveral Colleges and their Tenants in reſpect of their ſaid *right of Common* therein, but to the general impoveriſhment of the *poor* inhabitants of the City, who claim and uſe a like right of Common in the ſaid ground, which hath been, and is a great ſupport to them, and therefore when the like deſign of encloſure hath heretofore been attempted by the *richer* Citizens, it has been mainly oppoſed and hindred by the *poor* inhabitants of *Oxon*; and ſo (we conceive) they do oppoſe it at preſent. And it is to be conſidered that the *piece of ground* which they deſire

to

to encloſe containes by eſtimation eight hundred *Acres* of rich Meadow.

5. If the City have the *inheritance* of *Port-meadow*, and that it ſhall be thought fit to give way to ſuch an incloſure as is deſired for the ends by them propoſed, the Univerſity will not oppoſe, ſo as their intereſt in the diſpoſing, and the right of the Colleges and their reſpective Tenants be preſerved; or a valuable conſideration given them in recompence of their ſaid *Common* in the ſaid Meadow.

To the firſt Article of the Cities pretended Grievances.

1. WE anſwer and ſay. That the Univerſity hath, time out of mind, (and are warranted ſo to do by divers Charters confirmed by Act of Parliament) exerciſed *Power* and *Juriſdiction* in all cauſes mentioned in this Article, whereof or wherein a Priviledged perſon is one party.

2. We do claim *Allowance* of our Priviledge for ſuch Perſons juſtly priviledged, as the Chancellor ſhall under the Common ſeal certifie to any Court to be ſo priviledged; and we have had it without the formalitie or charge of long Pleading, paying only a fee for the allowance of the Certificat.

3. We have ever proceeded according to the courſe of the *Civil Lawes*, and after witneſſes have been openly produced in Court and ſworne, their examinations are taken in writing by the Judge and Regiſter, and then publiſhed, that all parties may have Copies of them, according to the courſe of the Civil Law, the High Court of Chancery, and the Admiralty.

4. We do not Proceed in an *Eccleſiaſtical* way, but in cauſes *Eccleſiaſtical*.

5. Sometimes heretofore we have uſed the cenſure of *Excommunication* againſt our own Members at the inſtance and for the benefit of the Citizens; but not ſo theſe fifteen or ſixteen years, and that courſe being now in effect aboliſhed by Act of Parliament, it cannot be matter of preſent or future Grievance to the Petitioners.

6. We

6. We do use Summons or *Citations* at first, before we grant out an Arrest against persons of quality, and such as are likely to abide and continue within the jurisdiction: But against Strangers that have no abiding there, and against such as are like to fly we do grant Arrests without any previous Citation.

7. That our Sentences are (as the Petitioners untruly suggest) *meerly arbitrary and grounded upon no Law, but at the will of the Judge*, we deny; For in his Sentences the Judge followes the Justice and Equity of the Civil Law, and Common Law, and the Statutes of the Land, against which he cannot nor does not judge.

8. If the Judge be thought to have judged erroniously or unjustly, *Writs of Error* are not brought to our Court, because the manner of proceedings there are not as at the Common Law, but the party grieved may either *appeal*, or complaine of a *nullity*, and have redress. And if it be appealed in the University there are there appointed yearly four or five Doctors, and some Masters from the Congregation and Convocation to hear the complaint, and from their judgments there lies an Appeal to the Supream Power in Chancery, where the Judges of the Land and other learned Lawyers, both Common and Civil, have usually been nominated Judges Delegates, as in the Admiralty and Prerogative Court.

To the Third.

The University does claim the *Night-walke*, and by Custome confirmed by Act of Parliament, hath exercised the same time beyond the memory of man; and that if any man be found by the Proctors abroad in the night without a *reasonable cause* by the same Custome he is liable to pay forty shillings for his *Noctivagation*; and this extends as well to Townsmen as Scholars or Strangers. But for barely *being abroad* about a mans own private, or any other publique occasions, such as are specified in this Article, we absolutely deny.

2. We further affirme, that if any man be taken in the Night he may put in Bayl and shew a reasonable cause of such his being

ing abroad the next day, or as ſoon as he can; and upon his ſo doing he is to be diſmiſſed without any payment.

3. If any Proctor have at any time tranſgreſſed the juſt bounds of their power, the Univerſity does not avow them in it: the party grieved may take his courſe againſt him.

To the Fourth.

The Univerſity time out of minde hath uſed the ſole power of admitting or *Licenſing* Common *Brewers*.

To the Fifth.

The Univerſity never did *challenge* or *exerciſe* any ſuch power as is mentioned in this Article.

To the Sixth.

The Univerſity doth not take upon them to *Diſcommon* any man *at pleaſure*; but only upon very great cauſe and wrong to the Univerſity, after monition and due proceedings, and that by common conſent in Convocation.

To the Seventh.

The Univerſity by ſeveral Charters, confirmed by Act of Parliament, does require an *Oath of the Maior and ſixty two Citizens*, to maintain their *lawful* Priviledges, and ſo it is expreſſed in the Oath.

To the Eighth.

The Univerſity doth challenge by Agreement and Indenture under the common Seal of the Town-Corporation the *Offering* of ſixty three pence yearly by the Maior and ſixty two Burgeſſes: But without any relation to the *High-Altar*, or *Maſs*, or the *Souls* of ſo many perſons ſlain.

To the Ninth.

The Univerſity by Cuſtome, confirmed by Act of Parliament, does claime a power to make *By-Lawes*, for the good government of the Univerſity and the Peace of the Place, in ſuch things as belong *ſolely* to the juriſdiction of the Univerſity; whereby the Townſmen as well as others are obliged in order

to

to the peace and good government of the Universfity: But in things that belong to the government of the City we meddle not.

To the Eleventh.

The Universfity claims *Felons Goods* and *Deodands* by an ancient Charter confirmed by Act of Parliament; and we deny that the City has any right to them at all.

To the Thirteenth.

The Universfity does *licenſe Taverns* in *Oxford*, according to the true intent of the Statute 7° *Edw.* 6ti and the perſons ſo licenſed are, and may be, Townſmen as well as Priviledged Perſons. And the City hath no right to ſet up any.

To the Fourteenth.

The Universfity by ancient Cuſtome and ſeveral Charters confirmed by Act of Parliament, and ſpecial Compoſitions with the City doth Claim, that Privileg'd perſons may *exerciſe Trades* according to the Law, as far forth as any Townſmen; But againſt the Law (as not having ſerved as an *Apprentice* in ſuch Trades where the Law requires it) we neither challenge nor exerciſe any more power then the Citizens themſelves.

To the *Second*, *Tenth*, *Twelfth*, and *Fifteenth*, and part of the *Fourth* we have forborn to anſwer, in regard the Petitioners have omitted them in their laſt paper of *Grievances* of the 10*th* of *April*; and by their Councel in the Audience of this Committee upon the 21. of *June* did openly declare they would not inſiſt upon them.

To the Paper of Reaſons exhibited by the Petitioners, *April.* 30. 1649.

1. *To the Reaſons of their firſt Grievance.*

I. TO the firſt Reaſon of their firſt Grievance. We anſwer, and deny it to be true that they have any ſuch Charter *allowed in Eyre*, or any ſuch *Cuſtome* as is pretended, *viz.* *Not to be*

be ſued out of their own Court; Nor ought to have for the reaſons following.

1. For that the Univerſity Court and the juriſdiction thereof, is of a higher antiquity then any Charter of the Citizens legally confirmed concerning their Court.

2. For that in the moſt and principal Charters of the City, as alſo in ſuch Acts of Parliament as tend to the confirmation of them, there is an expreſs *ſaving* of all the Rights and Priviledges of the Univerſity.

3. For that it appears by common Practice that the Citizens mutually ſue one another in the Courts at *Weſtminſter* and elſewhere, both by original Suits commenced in thoſe Courts, and by removing their Suits out of their own Courts by Writs of *Habeas Corpus*, *Certiorari*, and *Writs of Error*.

4. For that they are ordinarily ſued by Strangers both in the Courts at *Weſtminſter*, and other Courts; and we cannot find that ever they pleaded any ſuch *Charter of Exemption*; or if they did, that any ſuch Plea was ever allowed to them; Whereas the Univerſities Priviledge hath been frequently pleaded and in all ages *allowed*.

2. Whereas the Petitioners claim by their Charters *the ſame Liberties and Cuſtoms with London*.

We anſwer.

1. The Petitioners have not made it appear, nor ſo much as aſſerted, that *London* has any ſuch Liberty or cuſtome, whereby *They* may not ſue and be ſued out of their own Courts.

2. That ſuppoſing *They* have ſuch a Liberty or Cuſtome *at preſent*, yet the Petitioners have not made it appear, or ſo much as aſſerted that *London* had any ſuch Liberty at or before the time of the Grant of thoſe ſurmiſed Charters to the City of *Oxford*.

3. That divers other Cities and Boroughs in *England* have by their reſpective Charters like Grants of the ſame Liberties with *London* and *Oxon*, who yet are not exempted from ſuing and being ſued out of their own Courts.

4. That it will appear that the most ancient Charter which the City of *Oxon* can pretend to, in relation to the liberties of *London*, is utterly repugnant to it self as to the principal of those Liberties.

5. That *Custome* is the work of time, and grows without Charter, and therefore can not be granted by Charter.

6. That the *Customs of London* are of great variety, to some of which (notwithstanding their Charter be general for all) the Citizens of *Oxon* do not pretend; and to other some when they have laid claim by suits at common Law, by petition to the Lord Maior and Aldermen of *London*, by petition in Parliament, and by pleadings in Eyre, their claim has not been allowed.

3. Whereas the Petitioners suggest that their *Fee-Farm would be either lost or lessened in case their suits and trials should be in the Chancellors Court*,

We answer,

1. That ever since the Borough of *Oxon* was first rented out to that Corporation in *Fee-Farm*, they have continually fain in their Rent, but enhaunced their *Revenues* by Challenging and taking several particulars as belonging to their *Fee-Farm* which in truth are no part of it.

2. That granting the *perquisites of their Court* from the proper Suiters to be part of their *Fee-Farm*, yet their suing and being sued in the University Court, where a Scholar or priviledged person is one party, would nothing impair the *just perquisites* of their Court or *Fee-Farm*, in regard it was never otherwise since they had either Court or *Fee-Farm* in *Oxon*.

4. Whereas the Petitioners conceive there are at this present near *about a third part* of the housholders within the City *Priviledged* by the University,

We answer.

1. That we conceive a *tenth part* of the Housholders within the City and Suburbs are not priviledged persons; And that as

as the *benefit* of their priviledge by the daily growing oppreſſions and vexation of the Petitioners is in a manner wholy deſtroyed, ſo the *number* of priviledged perſons is much leſs than ever it was heretofore within the memory of man.

2. That if it were true which the Petitioners ſuggeſt, it thence follows, that the Petitioners by deſiring (as they do in their Article) to reſtrain *all Priviledged* perſons from exerciſing any Trade within the City, do thereby deſire to expoſe *a third part* of the Houſholders within the City as (being priviledged, as they ſay) to want and beggery.

To the ſecond reaſon, We anſwer.

That it proceeds wholly upon miſtakes of the *manner* and rules of *proceeding* in the Univerſity Court which we conceive we have ſufficiently cleared in our former Anſwer to their *Firſt Article of Grievances.*

To the third Reaſon, We anſwer.

That there is as quick *expedition* in our Court as in any other Courts, and they may as well object *That divers perſons commenced ſeveral Suits in the Courts at Weſtminſter for juſt debts due unto them by bond and for injuries committed againſt them*, and yet (it may be for want of good proof by witneſs, or otherwiſe, (as for want of able Councel, or careful Atturnies to look well to their pleadings and executions, or for want of abilitie in the parties ſued) *after long and tedious ſuits, and much expence, have been deſtitute of any redreſs*; and therefore this manner of reaſoning is not at all concludent, being an argument drawn *à non cauſa ut cauſa*, which if it were of any force, we might eaſily turn the edge of it upon the Petitioners, by giving inſtance in a Priviledged perſon who has a Cauſe now or lately depending in the Town Court, wherein he ſues divers Citizens for a juſt debt upon Bond, and though his debt and Bond were well proved or ready to be proved by ſufficient witneſſes, and no defect in his Councel or Atturney, nor any diſability in the Defendants, yet could he not get his mony in that Court, after a long and tedious ſuit

neer two years, and much expence. Yet is not the Court to be blamed, but the dilatorie cunning of the Defendants, and we cannot think it reaſonable to charge the faylings of men, or other intervening caſualties, upon the *Law* or the *Court*, either theirs or ours; the due proceedings of which later are, in themſelves, as compendious as of any other ordinary Court whatſoever.

To the Fourth and laſt Reaſon, We anſwer.

1. That ſuch Courts as ours have been found by long experience to *conſiſt* very well with the moſt flouriſhing *Commonwealths* that ever were or are in the world, and with the liberty of thoſe people who had or have no other order or manner of proceedings in their Courts then ſuch as is objected to ours.

2. That (as we humbly conceive) the wiſdom of this State in former ages thought it fit that our Anceſtors ſhould uſe the practiſe of the *Civil Laws* in our Court, the better to train up young Students in the knowledge of them, that they might thereby be made more ſerviceable to the Commonwealth in affairs at home and abroad.

3. That our Univerſity Court is of ſuch antiquity that the Common Law-Books, and ſome very ancient, take frequent notice of it, the proceedings thereof being always allowed by the Common-Law. And the Lord Chief Juſtice *Cook* in his Book *Of the Juriſdiction of Courts in England* (lately publiſhed by authority of the Honourable Houſe of Commons) makes honourable mention of the Courts in both the Univerſities.

4. That if the Citizens be Plaintiffes (as moſt commonly they are) beſides the expedition which they may find there, they may have the benefit of the Defendants Oath to eaſe them in their proof; They may have *good ſureties* put into Court not only to bring in the Defendants, but alſo to *pay the Judgment and Coſts* of Suit; they may *arreſt* not only the Body of any Priviledged perſon, but alſo his *goods, debts, and things in Action.*

5. That though this particular (if it were a grievance) does not only concern the Citizens of *Oxon*, but *all others* who ſhall have any commerce or dealing with Scholars or Priviledged perſons;

perſons; yet have *no others* complained of our Court, and the Petitioners of all others have leaſt cauſe.

6. That we do not challenge or exerciſe any other juriſdiction over the Petitioners or others in the Univerſity Court than the Citizens of *Oxon* themſelves, and all or moſt other Cities and Boroughs in *England* do claim and daily practice without contradiction over all other free-born people of the Land; to wit, to Arreſt and compel them to anſwer in their reſpective Courts, *if they can be there legally attached to Anſwer.*

7. That we do not claim or exerciſe any greater or other Priviledge in this particular than (as we conceive) is granted to and uſed by other Univerſities in *Europe* as well as ours; to wit, to ſue and be ſued before their own Judge: a Priviledge indulged to them and us *in favor of Learning*; that Scholars may not be called abroad to anſwer Suits, to the great neglect of their ſtudies and expence of their time and mony.

8. That in *mixt Suits* where one party is of the Priviledge of the Univerſity, and the other of the City, ſince it cannot be otherwiſe but ſuch Cauſes muſt be heard and determined either in *our Court*, or the *Town Court*, or both muſt be ſubject to a *forreign juriſdiction* (which would be equally repugnant to the Priviledges of both Bodies, no way advantagious unto them, and extreamly inconvenient for us) we cannot but conceive it more conſonant to *juſtice*, and withal more *convenient* that the Priviledge of the *Univerſity* ſhould herein take place of *theirs*.

1. Becauſe this Priviledge has been *anciently granted* to us, and we have been many hundred years in *poſſeſſion* of it, and it is alſo *confirmed* unto us by Act of Parliament.

2. Becauſe the Judges in the Univerſity Court, having no intereſt in the particular Suits brought before them, cannot be thought other then indifferent; Whereas if Scholars ſhould be Sued in the Town Court where the Maior and Bayliffs, Judges and Jury, are all Tradeſmen, it is very much to be feared it would go hard with the poor Scholars.

3. Becauſe (as we humbly conceive) the Univerſity is ſtill (as it has alwaies been reputed) the more noble Corporation, more

more Serviceable in the publick, and in which the whole Nation has a greater interest than in the City or Citizens; who for the most part are beholding to the University for much of their livelyhood and subsistence (as themselves in the *fifth Article* do imply) whereas we have no dependence upon them, but only wares for our mony at dear rates.

4. Lastly, Because (as we likewise conceive) if the Petitioners should prove so unfortunately successful in their desires to obtain the liberty of Suing Scholars in their Town-Court, it would prove in the end very prejudical to themselves; for besides that it would minister occasions of discontent and continual quarrels betwixt the Bodies, it would deter Scholars from having any dealing or commerce with their new Judges the Citizens.

II.

To the Reasons of their second Grievance, made up with divers specious instances to cast aspersions upon the Universities Right and Priviledge of the *Night-walk.*

We answer.

1. That the Right and Custome is so ancient, so strengthned by confirmation of Parliament, and the benefit thereof so great to all inhabitants by the careful practice and exercise of it, and the continuance of it so absolutely necessary for the good government of the University, (especially for securing younger Scholars against the many temptations to lewdness and loosness, which they ordinarily are exposed to by means of such Townsmen as make their own advantage out of the others luxury and deboystness) that no man of any civil conversation, Stranger, Sojourner, Citizen, or other, hath ever expressed the least reluctancy against it: As for such disorderly walkers, who are of a contrary disposition, it is used only to reduce them to civility; and the Proctors exercise the like power over them, which the Constables and Magistrates in other places are allowed by the Laws of the Land, to preserve the quiet of the place, and to punish the misdemeanors of such as are disorderly.

2. We

2. We do not know that any Proctors ever exerciſed ſuch power over the Publick Magiſtrates of the City in the due execution of their offices as is charged in this Article: Or if any did the parties grieved might have their remedy againſt them; the Univerſity does not claim any ſuch power.

3. We anſwer and deny that the City have any ſuch ancient Charters concerning *five Aldermen and eight aſſiſtants* of the City as is pretended in this Article.

4. We likewiſe deny that in the caſe of *Noctivagation* the Proctors are any *Judges* at all, but only Relators of the Offendors; nor are they to have the forty ſhillings, but only the half in caſe of legal conviction, as in all other caſes of mulcts.

5. As for what the Petitioners have propoſed as an expedient in this point, *That the Town Officers may have as much power over us, as the Univerſity Officers over them*, we conceive it would be neither *juſt* nor *ſafe* for them to endeavour, or us to conſent to the dividing that power with them which by Law and practice is wholly ours, and which is ſo abſolutely neceſſary to the well governing of the Univerſity. Beſides, we conceive that if both parties ſhould walk in the Night, it would breed occaſion of quarrels and tumults, if not Blood-ſhed. And how little cauſe the Petitioners have to complain of Tyranny in the exerciſe of this power, we dare appeal *to the conſciences* of the beſt and graveſt Citizens, whether *they* have not enjoyed both quiet and profit by the vigilant care of the Proctors in the Night-watch: *To the knowledge* of ſuch others of their Body, whoſe diſorders made them juſtly obnoxious to that power, whether they have not uſually been much more favorably dealt with than the members of our own Body: Laſtly, *To the Teſtimony* of many other civil Gentlemen both of our own and forraign Nations, who in times of peace did uſe to come and ſojourn in *Oxford*; whether they did conceive it any Grievance to them to be ſubject to this and other rules of Government of the Univerſity, which the Petitioners are pleaſed to traduce as *arbitrary* and *Tyrannical*.

III. *To*

III.

To the Reaſons of the Third Grievance, We anſwer.

1. That the Univerſity having the undoubted *Aſſize of Bread and Beer* (and the *Oath* for the obſerving that Aſſize being a neceſſary conſequent depending on it) the right and cuſtome of admitting and *Licenceing* of common *Brewers* and *Bakers* in *Oxon* is not only ancient, but for the fitneſs thereof hath alſo received and had confirmation by Act of Parliament. Neither is it without examples of like nature in the Book-caſes, where time hath indulged the like cuſtome to perſons of qualitie in other places. And this particular Right of the Univerſity hath not many years ſince been declared by the free and voluntary acknowledgment of the Brewers of *Oxon* themſelves, as in due time will be ſhewed in writing.

2. As for the *Fees* of ſuch *Licences* or admiſſions, we anſwer, they have been anciently paid to ſeveral *Officers* of the Univerſity for their pains about that buſineſs, and are (as we conceive) in themſelves but moderate, far ſhort of ſuch Fees as are required by the City, and their members in other like caſes, But the Univerſity claimeth no Fee to their Body for any ſuch Grant or Licence.

3. We further conceive it is not *improper* for the Univerſity to have this right, (which in all probability) would be worſe practiſed and with greater prejudice to the publick, if exerciſed by the City; whoſe chief Magiſtrates are for the moſt part men of the ſame Trades, and who by ſeveral Acts of Parliament are prohibited from entermedling with the Aſſizing and Correction of victuals, or the defaults therein.

IV.

To the Reaſons of the Fourth Grievance, We anſwer.

1. The Univerſity never *challengeth*, nor did any Vice-chancellor ever *exerciſe* any ſuch power of *pulling down*, or abating, *Townſmens houſes*.

2. As

2. As to the two Inſtances, we ſay, thoſe houſes were both erected by the City and thoſe who derive from their Title, with ſuch prejudice to the common paſſages adjoyning, that they were preſented at the Leet as *Nuſances*, whereupon they were ordered to be abated, *viz.* ſo much of the *firſt* of them as might enlarge the paſſage at *Smithgate* (which had been obſtructed by that encroachment) to the conveniency of a Coach or Cart-way, and what was done by the Vice-chancellor herein, was upon the requeſt of the City, expreſſed in their Letters to the Lords of the Privy Council the 17th. of *April*, 1634. by whoſe Order thereupon made, the overſight of doing thereof was referred to the then Vice-chancellor, as intruſted with the Care and Cuſtody of the Streets there: The *ſecond*, totally to be demoliſhed, as being moſt notoriouſly diſliked and complained of by the whole Countrey, and all paſſengers, to whoſe great danger it was in their travel over Eaſt-Bridge, whereupon it was newly erected: upon the doing thereof the Lords then directed that convenient recompence ſhould be made to the Owners of thoſe houſes by thoſe that did abate them; which was in truth the City themſelves, and not the Univerſity or Vice-chancellor.

V.

To the Reaſons of the fifth Grievance, We anſwer.

1. That the matter here intimated by the Petitioners (for it bears not any direct charge of *Diſcommoning*) is an ancient Priviledge of the Univerſity, albeit rarely practiſed, and not but upon great provocation, to which the Univerſity has recourſe as to their laſt refuge againſt the profeſſed Adverſaries of the publick rights, peace, and good government thereof; and that only by their joint and general conſent in Convocation, wherein we conceive our proceedings juſtifiable.

1. For that of common right trading is free for all perſons, where, and with whom they pleaſe; and the ſame meaſure we do herein meet to the Citizens, they may, and we are

content (if they ſee juſt cauſe) they ſhall meet to us again.

2. For that the Petitioners do the like themſelves not only towards the Univerſity and Priviledged perſons, but even to members of their own Body.

2. We further anſwer, That this practice of the Univerſity cannot in congruity be conſtrued as tending to a *Monopoly of Trading*, in the intentions of thoſe that uſe it; who are neither ſo ignorant of their own intereſt, nor ſo much enemies to it, as to deſire any thing more than an univerſal *Freedom* of *Trade*; which as it is moſt conſonant to the native liberty of every Freeman, and to the Common-Law of the Land; ſo would it be more beneficial to Scholars than any other perſons, they living wholy upon the penny, buying all commodities, but having nothing to ſell. But whether the Petitioners themſelves, be not in an high meaſure guilty of that crime which they here object to the Univerſity, we deſire may be conſidered, for that they have got, by purchaſe or otherwiſe, into their hands ſeveral ancient *Faires*, and *Markets* heretofore uſed to be kept in *Oxon*, and ſometimes belonging to ſome Colledges, and have ſuppreſt them to make way for their own ſole Trading in that place; and have of late without any juſt warrant, erected new *Corporations* of particular Trades, and by colour thereof engroſs ſuch Trades among themſelves, to the great prejudice of other Tradeſmen, and the enhanſing of prices upon all manner of buyers.

VI.

To the Reaſons of the ſixt Grievance, We anſwer.

1. That the *Oath* complained of by the Petitioners, as to the *form* of it, hath been approved and ſetled upon ſolemne debate in Parliament above four hundred years ago.

2. Whereas they object againſt it that it is conceived in *General terms*, We reply, So are all thoſe Oaths which are required by the City of *Oxon*, and other places, of all their Freemen, when they are firſt enfranchiſed, *to preſerve the Liberties* of their reſpective Corporations.

3. Whereas

3. Whereas they pretend *ignorance* of our Priviledges, and thereby insinuate how unjust it is they should Swear to preserve them, We answer, That neither this Oath which we require, nor any other of that kind which is conceived in *General terms* does, by intendment of Law, bind the takers to any farther observance of the particulars comprehended within that generality, then *as they shall come to their knowledge*; And we farther say; That this reason (if it be of any force) is much more pregnant against that Oath, which is usually imposed upon all the Freemen of *Oxon* at their first admittance, *to maintain and keep all the Franchises, Liberties, and Customs of the City*, to which many of them are altogether strangers at the time of their taking that Oath, whereas none are required or admitted to Swear to maintain the Liberties of the University but a few Citizens of the Graver sort, to whom by reason of vicinity and long conversation amongst us, the Customs and Liberties of the University are sufficiently known.

4. Though we do confess *all* Priviledges to be *just* which we claim, yet we neither pretend to be our own Judges to determine, in point of Controversy, *which are just*; neither do we pretend that the Maior or any Citizen is bound to Swear, or if he do Swear, is bound to maintain all or any Priviledges barely claimed by the University as *just*, unless they be so in themselves, and have been *lawfully used* by the University, And therefore since (as is clear by the words of the Oath) we do not claim that the Maior and Citizens oughr to Swear to maintain any other than the *lawful* Priviledges of the University: And that it is acknowledged by the Petitioners, that the Maior is bound by his Oath (and known by common practice, that every Freeman is in like manner bound) to maintain *all* the Liberties of the City, and that *many* of those do *clash and stand* in opposition to diverse of those which the University so claim, It must follow, that *all* such pretended Liberties of the City as do clash with those Liberties of the University, which the Maior and Citizens are required by Oath to maintain, must be in themselves unlawful.

5. Lastly, we crave leave to observe a very prepostrous course

taken up by the Citizens of latter times to overthrow the juſt and ancient Rights of the Univerſity, by the new forged Engines of their City Oaths; for firſt they frame an Oath contrary to our Priviledges, and then complain of our Priviledges for being contrary to their Oath.

VII.

To the Reaſons of the ſeventh Grievance, We anſwer.

That for the great loſs ſuſtained by the Univerſity in *Edward* the Thirds time by the cruel and bloody outrage of the Townſmen againſt the perſons and goods of many thouſands of innocent Scholars, the Maior Bayliffs and Commonalty then entered into two Bonds, one of *Five hundred pounds*, and the other of *a hundred marks* yearly to the Univerſity; the *former* was given up upon the payment of *fifty pounds* only, (no way anſwerable to that loſs) the *ſecond* was ſuſpended by an *Indenture of Compoſition* ſo long as the Maior and ſixty two ſuch Townſmen as had been ſworn that year to preſerve the Priviledges of the Univerſity, ſhould yearly upon *Scholaſtica*'s day repair to St. *Maries* Church, and be there preſent at ſuch ſervice as was ſuitable to thoſe times, and ſhould then and there offer ſixty three pence: which was to be diſtributed two parts to the poor, and a third to the Miniſter of the Pariſh. Upon the Reformation in *Queen Elizabeths* time, by conſent of both Corporations, that Service was changed into a *Sermon* or *Communion*, but the *Offering* was agreed to be continued; which if the City will redeem, the Univerſity expects *Firſt* recompence for the remainder of the Mony abated upon that firſt agreement, *Secondly* a reparation for the Scandal of this Article and Grievance, there being none more abhorring of *Superſtition* than they who are herein charged with an endeavour of continuing it.

VIII.

To the Reaſons of the eight Grievance, We anſwer.

1. That the Univerſity, by ancient Cuſtome confirmed by Act of Parliament, have uſed to make *By-Laws* for the better ordering

ring and government of the Univerſity and Scholars therein; which By-Laws bind not only Scholars but Tradeſmen alſo in relation to the Ordering and Government of Scholars, and not otherwiſe; And this power is adjudged in diverſe Book-caſes to be binding unto ſtrangers in the like caſes, albeit they never actually conſented by themſelves or any immediate Repreſentatives to the making of ſuch By-Laws.

2. That the Petitioners themſelves in other caſes, do both claim and exerciſe a like power over the Eſtates and Perſons of diverſe Inhabitants in *Oxon* not of their Corporation, nor any waies privy or conſenting to their Orders, either by themſelves or any Repreſentatives.

As to the Inſtance concerning *Taylors*, we anſwer as before, That we have not made any By-Laws concerning them, but in relation to the Government of Scholars, and we conceive it inconvenient that it ſhould be in the power of Taylors to inveagle young Gentlemen into new and chargeable faſhions in Apparel, contrary to the deſires of their Parents, the direction of their Tutors, and the publick Diſcipline and Order of the Univerſity, meerly to enhanſe their own prices in the making, and the Mercers gains in the ſelling of ſuch dear, but unneceſſary, trimmings as this Inſtance relates unto: And we ſay farther, That we know none more guilty of the Grievance here objected to the Univerſity than the Taylors of *Oxford* themſelves are.

IX.

To the Reaſons of the ninth Grievance, We anſwer.

1. That the particulars here in Queſtion are meerly matter of Law, to which of the two Corporations *Felons Goods* and *Deodands* do of right belong; The Univerſity claims them as granted to us in expreſs words by an Ancient Charter (the only way by which they can be granted) and this Charter is confirmed by Act of Parliament; and we deny that the City have any ſuch Charter precedent to ours that does grant them to the City, and upon this we are ready to ſubmit to a Tryal at Law.

2. That

2. That if the Petitioners have no good Charter for them, then their having the Custody and Charge of the *Gaol*, and the power to try the *Prisoners* when they purchase such a Commission, and their being liable to *Escapes*, will not entitle them to the *Goods of Felons* (much less to *Deodands*) nothing being more known and ordinary than for several Lords of Franchises to have the Goods of such Felons as were their Tenants, who yet are not kept or tryed at their charges.

3. We say though the City have *one* Gaol with the custody whereof they are charged, yet there is another within the Liberties of the City and used by the County, to which the University does commit most of their Prisoners, and may do so by all.

4. Though they by *charged* with their *Gaol* and *Prisoners*, yet it is very little charges to them: such Prisoners as have wherewithal being maintained out of their own goods; and such as have not, by Alms, especially of the University and Colledges; the Gaoler in the mean time making a good advantage of his place by Fees, and otherwise.

5. What charges they voluntarily put themselves to in the trials of Felons, is more than they need to do: for if the Felons be of the Body of the University, they may be tried before our Steward at our charges if we please. And if they be not of our Body, they may and have been tried before the Judges of Assize and Gaol-delivery for the County.

6. Why such Perquisites as are meerly matter of profit should be thought by the Citizens so improper for Scholars to enjoy, we do not understand; nor do we know how they do or can engage Scholars in such trouble as is surmised; which the University do receive by the hands of their Bailiffs, and may (if they please) rent them out to any other person.

7. All the pretentions of the Petitioners in point of convenience do nothing respect either *Deodands*, the goods of *Fugitives*, *Treasure Trove*, and other particulars which are in like manner challenged both by the University and City upon the same titles as *Felons Goods* are.

X.

To the Reaſons of the tenth Grievance.

1. We anſwer and deny that the City hath any power by Charter or otherwiſe to ſet up *Taverns*, or to Licence the ſelling of Wine by retail in *Oxon*; nor doth the Statute of 7°. *Edw.* 6^ti. *cap.* 5^to. by Letter, or Equity, enable them ſo to do. But the Univerſity both at the time, and long before, the making of that Statute had and uſed the Priviledge of Licenſing and ſuppreſſing of Taverns in *Oxon*. And this our Priviledge is ſaved unto us, by an expreſs *Proviſo* in that Statute, by virtue whereof we do juſtifie the inhibiting the City to erect *Taverns*, or Licence the ſale of Wine by retail in *Oxon*.

2. We further ſay, that in reſpect of that power which we claim and exerciſe over Vintners, Brewers, Bakers, and other Victualers, and in the Market, and for thoſe ſmall perquiſites we receive thence, the Citizens are yearly abated, and the Univerſity was anciently charged with a conſiderable part of their *Fee-Farm-rent*; whereas we do not receive any conſiderable benefit this way proportionable to what the City hath, or claims to have, as belonging to their Fee-Farm other ways.

XI.

To the Reaſons of the Eleventh Grievance.

1. We anſwer, that it is one of the moſt ancient Liberties of the Univerſity, that the Priviledged perſons thereof may uſe any *Trade* and exerciſe any Merchandize in *Oxford*, or the Suburbs thereof as freely as any Citizen; and this hath been confirmed unto us not only by Act of Parliament, and Judgment in Parliament, but alſo by Indentures of Compoſition between the two Bodies, whereby the Priviledged perſons have been aſcertained that ſhould exerciſe ſuch Trade and Merchandize; who in that regard are to be talliable by ſcot and lot and other charges with the Free-men of the City.

2. We

2. We do not otherwise than according to this Priviledge assume power to set up trades within the City; nor do we authorize *Forreigners* to exercise Trades in *Oxon*, other than such as by the Law of the Land and Priviledge of the University are, and ought to be allowed; however some of them have of late years been unjustly molested by the Citizens for so doing.

3. We deny that the City has any *Charter* so confirmed as is pretended to exclude Priviledged persons from exercising lawful Trades, and selling by Retail within the City, though they be not of their Guild: no such Charter having hitherto been produced upon former Hearings when this point has been in debate betwixt us.

4. Lastly we humbly conceive this Liberty cannot in equity and good conscience be taken from Priviledged persons, who are many of them Butlers, and Manciples, or other Officers and Servants to the University, and the Colledges, and Halls therein, having wives and Children to maintain, which they cannot otherwise do than by Exercising lawful Trades; their small wages and allowances which they receive by their respective places being scarce sufficient to maintain them in meat and cloaths, and other necessaries, if they were single persons, and had no other charge.

To the Conclusion.

By what hath been said on either party we suppose it does sufficiently appear that some of the particulars in controversy betwixt us (which the University claims as their just and ancient *Priviledges*, and the City complain of as *Grievances*) do concern meerly matter of *profit* and *interest*; to which if our Title be good in *Law*, we hope they will not be thought *inconvenient* for us to enjoy; though the City desire to strip us of them. And because a full hearing and exact discussion of all their and our Charters and Pretensions would occasion much trouble to this Honourable Committee, we therefore humbly pray that we may be left to a tryal at Law for all such things as are meerly matter

matter of Title, and not be disturbed in our possession till we shall be evicted by Law.

As for other Particulars which concern matter of *Power* and *Jurisdiction* we likewise humbly desire, that our *Right* may be cleared and acknowledged *first*, and *then* the matter of *Convenience* taken into consideration; whereby we hope it will appear, that as those Priviledges are *just* and legal, so they are no way *unfit*, but absolutely *necessary* for us to enjoy, as tending to the advancement of Piety, Civility, and Learning, no way derogatory to the Power of the Civil Magistrate, not founded upon Superstition or Tyranny, nor inconsistent with the just freedome and immunities of the Citizens. Wherein we desire it may be considered, That many large immunities and Priviledges have been granted and are enjoyed by the City in respect of the University: That their principal Benefactors have been members of the University: That they receive an ample benefit by our continual commerce and trading with them, all or most of our Revenue coming in from abroad, but expended amongst them: That their Children receive a liberal education and preferment amongst us, beyond the proportion of other places: That, if it were not for the University, the City of *Oxford* would be but of mean consideration: That there are many other Cities, but only one more University in the Land, and those two as famous as any in the World: That the Universities are the publick Nurseries of Religion, Piety, Learning, and Civility, and therefore have ever been the great Care of Parliaments, and the Glory of the Nation: That though some of the Powers claimed and exercised by the University over the Citizens may *seem Grievous* to the Citizens, yet are they Necessary for us, without which it would be impossible to give a good accompt of that great trust which is committed to us for the training up of youth, upon whose education not only their own welfare, but the flourishing condition of the Common-wealth (next under God) does very much depend.

We therefore humbly desire and pray, That the Golden reins of that ancient Discipline by which both the University and

City have for so many hundred of years stood and flourished together, may not be let loose, to the certain debauching of both Bodies, for the enriching, nd advantage of one; nor be committed to other hands; which would (we fear) engage the members of both Bodies in continual quarrels, and open a gap to such sad consequents, as we shall be sorry to see, but unable to prevent.

FINIS.

THE

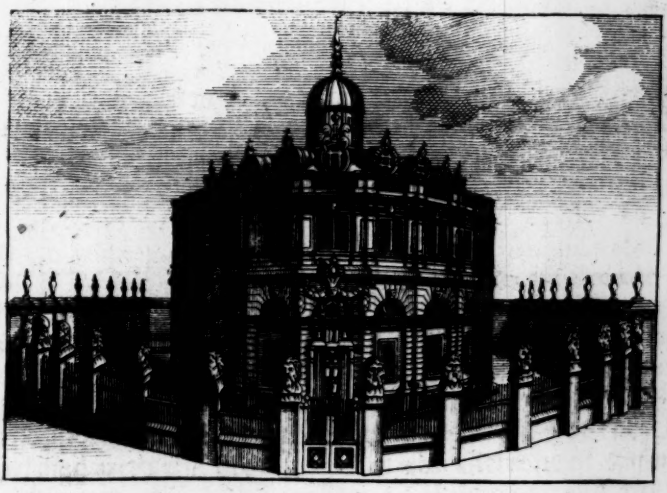
CASE

OF THE

University of *Oxford*;

Shewing, That the City is not concern'd to oppoſe the Confirmation of their *CHARTERS* by *PARLIAMENT.*

Preſented to the Honourable Houſe of Commons on Friday Jan. 24. $16\frac{89}{90}$.



Oxford, Printed at the THEATER, 1690.

THE CASE OF THE UNIVERSITY of OXFORD;

Shewing, that the City is not concern'd to oppoſe the Confirmation of their CHARTERS *by* PARLIAMENT.

THE Univerſity deſire this Confirmation of their Charters by Act of Parliament, only to ſecure themſelves from a return of thoſe Encroachments in any ſucceeding Reign, which they experienc'd in the laſt. For when once the Grants of Kings to the Univerſity in general, and to every Colledge in particular, ſhall be affirmed by Law, it is evident, that there will be no pretence nor color left for any Arbitrary Power to violate our Priviledges for the future. As the Univerſity deſign'd nothing more by this Bill, but this Security to themſelves; ſo were they careful to remove from the City all grounds of Jealouſie on this occaſion: And therefore they of their own accord charg'd this Act with a Proviſo, which fully ſecures the Rights, Liberties, and Immunities of the City; and puts them wholly out of the reach of this Bill. As the confirmation is by Act of Parliament, ſo is the Proviſo made by the ſame Authority; and therefore no greater power can ſecure our rights, than that, which, as Effectually, reſtrains our Encroachments. The Town of *Cambridge* are ſo ſenſible of their own Security in this Clauſe, that though they have equal Reaſon to oppoſe this Bill, as the City of *Oxford*; yet they wholly reſt ſatisfied with the Proviſo. But the Citizens of *Oxford* have taken this opportunity to preſent a Liſt of their old pretended Grievances,

Grievances, most of which were offer'd to the Parliament, as then call'd, in 1649, and rejected even by that Assembly. It is conceiv'd, that the City of *Oxford* will by force of the Proviso have the same liberty to dispute the Justice of our Rights after this Act, as before it; and that therefore they are in no wise concern'd to oppose the Bill, but may, without danger to them, be referr'd to the ordinary course of Law. However, since they have represented as new Grants, the ancient and unquestionable Rights of the University, founded on immemorial Customs, ancient Charters of Kings, and confirm'd all, except one, by Act of Parliament; it hath been thought fit to discover that Fallacy, and to give a full Answer to every one of their Articles.

I. *BY a Charter bearing date the* 30. *day of* March 11. Car. 1. *the sole Licensing of Taverns is Granted to the University, and all Magistrates and others within or without the University (except the Chancellor, and his Vice-Chancellor) are prohibited to intermeddle with the Licensing of Vintners, in* Oxford; *and none are to License any Ale-houses there, but by the Express consent of the Chancellor, or Vice-Chancellor; and by colour of this Grant they do License Ale-house-keepers, and take Recognizances; but did never Return any of them to the Quarter Sessions until about ten years last past, and have since Returned the same but seldom. Whereas by the Statute made* 7. Edw. 6th. *the Power of granting Wine-Licenses in* Oxford *is Vested in the City; and also by the Antient Charters of the said City, none that is not of the Guild of the said City ought to sell any Wine by Retail in the same; and the Magistrates of the said City, by several Acts of Parliament, have Power, as Their Majesties Justices of the Peace, to License Inns and Ale-houses within the said City.*

Answer I. The University claims the sole Licensing of Taverns, but derives that Power much higher than from the Charter of *Car.* 1. The recital and explanation of ancient Priviledges in that Grant, will not reduce them to as low a date, as the Charter it self. And therefore since this Power was originally vested

vested in us at least under *E.* 3, We still justifie our claim to it as given by him; and always sav'd to us in the Statutes of his Successors. The 7. *Ed.* 6. doth not take away this Power, but set limits to it; it restrains the University to three Taverns only, and neither by Letter, or Equity enables the City to License any. The 12. *Car.* 2. saves the Rights of the University, and takes away all pretences of any right from the City. For if that power, which is now lodg'd in the University, should be taken away from us; It is evident, That, according to the legal exposition of that statute, the King only, and not the City could have any advantage by our loss. For since all *independant* Corporations, which had once an indisputable right of granting Licenses, are *restrain'd* by this Law; it is easy even for the City to inferr, That a *Subordinate* Corporation, which could heretofore lay no good claim to that power, must *at least equally* be subject to that *restraint*.

2. The Licensing of Ale-Houses is a Right of as ancient a date as the former; but not always perhaps in so express words sav'd to us. This Power, as a branch of the Clerk-ship of the Market, was indisputably ours: and in all Compositions with the Town, was heretofore so esteem'd and allow'd; nor is it, as we conceive, lessen'd by 5. and 6. *Ed.* 6. For the intent and design of that Act is to permit none to keep an Ale-house, but those that are Licens'd by two Justices; but not to authorize all to keep one, who can obtain that License. The Vice-Chancellor therefore doth still retain his Negative Voice; nor is it reasonable, since the inconvenience of Ill Houses in *Oxford* would be so great, that any should be permitted there without his Consent and Approbation. But Lastly, it is to be noted, That though in the precedent Statute, the Rights of the University be not expressly sav'd: yet that this Law is no otherwise enforc'd and continued by 1 *Jac. c.* 9. than that the ancient Priviledges of the University should not be lessen'd by it.

II. *By*

II. *By the said Charter it is Granted, that the Chancellor, Vice-Chancellor, or Proctors, shall have Power to search by Day or by Night for suspicious Persons, and for such as can give no Account of themselves, and to punish such as are faulty by Imprisonment, Banishment, or otherwise, with a mandate to the Maior and Officers of the Town to be Assistant to the search after such Offenders; and by colour of this Charter, and a pretended Custom, they claim a Power to impose Forty shillings upon any Person (whether Citizen or Stranger) being out of his House or Lodging after Nine of the Clock; which they have Exercised not only upon Private Citizens, but upon the Magistrates of the City in the Execution of their Offices, and have Imprisoned the Constables for keeping Watch and Ward according to the Statute of* Winchester; *which is a great Invasion upon the Liberty of the Subject, and hath been often so declared in* Westminster-Hall; *wherefore it is humbly hoped this Parliament will not Affirm the same by a Law.*

Answ. II. The Power of the *Night-watch* is vested in both Universities by immemorial Custom, confirm'd to the University of *Oxford* by the Charters of *Hen.* 3. and *Ed.* 3. ratified by Act of Parliament under Qu. *El.* and only more largely explain'd by the Charter of *Car.* 1. This Power being totally vested in the Vice-Chancellor, and Proctors: those Persons who have set up a Watch, upon pretence of their Office, with a design'd Affront to the University, have formerly been amerc'd by the Vice-Chan. and that Sentence against them was, upon an *Habeas Corpus* brought, in *Painter*'s Case, affirm'd in the *Kings-Bench.* But yet if those Turbulent Persons had not other designs, than to aid the University in their Watch; their assistance is so far from being forbidden by that Charter, that it is expresly requir'd. The Statute of *Winchester* indeed enjoins a Watch to be kept; but takes not away the Universities Power of keeping it: So that the performance of this Duty by the University, can be no breach of that Statute; but the neglect of it might be so.

2. The right of this Power being thus clear'd, much might be

be added concerning the abſolute neceſſity of the continuance of it; eſpecially ſince the exerciſe of it hath always been ſuch, that nothing can be reaſonably objected againſt the good Management of that Office. We have no power to puniſh men for being out of their Houſes after Nine, if they have any reaſonable Cauſe, for being ſo; and we appeal to the Citizens themſelves, whether we have ever been ſevere in admitting their Reaſons or Excuſes.

III. *By the ſaid Charter the Clerkſhip of the Market is Granted to the Univerſity, with free Power to Diſpoſe of the Stalls and Standing-Places in the Markets, to have the full Government of the Markets, and to take Toll in the Markets; Whereas the Univerſity hath only a Title to the Clerkſhip of the Market, (and that did Anciently belong to the City;) but the Markets, and the placeing of them, and all Stallage, Piccage, and Toll, and all other Profits therein, by ancient Uſage and Preſcription, do yet belong unto the City; and for the Profits thereof, the City doth pay a large Fee-Farm to Their Majeſties. So that in caſe the ſaid Charter ſhall be confirmed by Parliament, the ſaid City will loſe the ſaid Markets and Profits ariſing thereby, which is a very conſiderable part of that Revenue, whereby the Corporation is maintained and ſupported.*

Anſw. III. The Univerſity, by the Charters of *Hen.* 3. and *Ed.* 3. had the full Government of the Market, and all other Incidents to that Office. The City indeed did pretend to take Toll; but upon complaints againſt it in Parliament 14 *Ed.* 2. and 28 *Hen.* 6. were obliged to deſiſt. And in the year 1429, they did in Convocation openly diſown both Toll, and Stallage, and a publick Inſtrument was thereupon made. The Town do not pay any Fee-Farm-Rent to the King for theſe Profits; but on the contrary, the Univerſity were obliged in 29. *Ed.* 3. to pay five pounds to the King for the Clerkſhip of the Market, and theſe Perquiſites thereof.

IV. *Power is given to the University, by the said Charter, to hold a Court-Leet, or view of Frank Pledge as well over the Town, and all the Inhabitants, as over the University; that it shall be a full and compleat Leet, and that the University shall have the Perquisites thereof, and Power to Distrain for the same. Whereas the City hath Five Leets, one Absolute and Compleat for North-gate Hundred, and four other for the Four Wards within the City, and therein have all the Power of Leets; Except, 1st. the Enquiry into the Assize and Assay of Bread, Beer, and Wine. 2d. The Examination of Weights and Measures. 3d. The Punishment of Fore stallers, and Regraters. 4th. The Punishment of Putrid Victuals. 5th. The Punishment of those who wear Arms in the University; And, 6th. the Survey of the High-ways, and Streets; which being Anciently likewise in the City, were* 29. Ed. *the 3d. surrendered into the King's Hands, and by Him Granted to the University; and for these Six Points the University have ever since* 29. Ed. 3d. *held a qualified Leet over the City and Suburbs, for so much, and for so many Things and Inquiries as were given to the University* 29. Ed. 3d. *And this Leet is to be served by a mixt Jury, one half Priviledged Men, and the other half Free; and the Penalties imposed by the said University in this Leet are to be Estreated, and sent to the City, and to be Levied by them to their own use towards their Fee-Farm.*

Answ. IV. The University doth not only claim a qualified Leet, by the Grant of *Ed.*3. but *prescribes* to an absolute and complete Leet; which was ratified to them by the Charter, 14. *H.*8. and confirmed by Act of Parliament, 13. *Eliz.* The Town cannot prove, that the Profits of our Leets were ever granted to them; and if they could, yet the University was first intitled to them by far more ancient Charters; and consequently could not be *deprived* of that Right by any subsequent Grant.

V. *By the said Charter it is Granted, that the University shall have Power to make Orders and Laws to bind all the Inhabitants in the said City. Whereas the City and University are two distinct Corporations, and the one in no sort Subordinate to the other; and therefore it is not reasonable that the Citizens should be bound by Laws, which they never consented to by themselves or their Representatives.*

Answ.

Anſw. V. This Charter doth no otherwiſe ſubject the City to the Univerſity, than former Grants and Acts of Parliaments had ſubjected it. They were always before a Corporation ſubordinate to us; and in Law, as well as Intereſt dependant on us. They are accountable to us in our Courts, they do every year take an Oath of Fealty to us, and theſe, if any, are ſufficient Tokens of Subjection.

2. Since therefore our Corporation is ſuperior to them, it is no wonder, that our By-Laws ſhould oblige them. And this Power was not, as they would pretend, granted to us by *Car.* 1. but is an ancient and unqueſtionable Right, already confirmed by Act of Parliament.

VI. *By the ſaid Charter a Grant is made to the Univerſity of two Coroners. Whereas, time out of mind, the City hath had two Coroners, who have ſate upon all Perſons, as well Priviledged as Free, until the making the ſaid Charter; and therefore the City having an Intereſt in the Coroners before the ſaid Grant, the Grant to the Univerſity is void, and Inquiſitions taken under their Grants* Coram non Judice.

Anſw. VI. The Univerſity had long before, by Charters of *Hen.* 4. and *Hen.* 8. power to hear and try all Felonies and Murders, committed either by their own Members, or againſt them; and therefore it ſeemed neceſſary, in purſuance of former Rights, that for the better Inquiry into thoſe Offences, that were afterwards to be finally tryed by them, the Coroner ſhould be appointed by their Authority. This, and this only is the new Grant of *Charles* the Firſt, and is ſuch a Priviledge, as may indiſputably be granted by him; and which cannot be thought to encroach on the Right of the City, who ſtill have power to appoint a Coroner for themſelves; and were forbidden by former Charters to aſſign one for us. The Coroner's Power indeed was before lodged in the Chancellor and Steward; and *Charles* 1. did not ſo properly create a new Office, as divide the different Powers of a former Officer.

VII. *By the ſaid Chahter Towns-men are to be Anſwerable for their Families in Buying and Selling all Wares, where either Party is a Scholar; and alſo for all ſuch Perſons as they ſhall harbour in their Houſes above three Nights; and no Towns-man is to build any Cottages without the Expreſs leave of the Chancellor, or Vice-Chancellor, which are Reſtraints inconſiſtent with the Liberty of a Free-man of* England.

Anſw. VII. Theſe pretended new Hardſhips are reaſonable and ancient Cuſtoms agreeable to our ancient Charters. If the Servant ſells falſe Goods, the Maſter is obliged to Reſtitution; if a Man will harbor a Stranger above three days, he ſhall be reſponſible for him. And there is the ſame reaſon, if a Man do erect a Cottage for the Reception of ſuch perſons as if he harboured them himſelf. Now it is not eaſy to imagine, that theſe Cuſtoms which were the known Laws of the Land, even before the Entrance of the *Normans*, ſhould be now inconſiſtent with the Liberty of the People of *England*, and apparent Badges of Slavery.

VIII. *The Univerſity hath likewiſe by the ſaid Charter a Grant of Felons Goods, and Power to ſearch and ſeize ſuch Goods; whereas the City doth claim the ſame by Charters more ancient than any the Univerſity pretended to claim by; and the Univerſity themſelves, under their Common-Seal, have granted, that Felons Goods do belong unto the City, towards their Fee-Farm: And the City having the Charge and Cuſtody of keeping the Gaol, and being liable to Eſcapes, and being at the expence of holding Seſſions of the Peace, and Gaol-delivery four times in the Year, and the Execution of Priſoners; it may ſeem unreaſonable that the Univerſity ſhould have the Profit of thoſe things, which uſually belong to other Cities in the ſame circumſtances.*

Anſw. VIII. Felons Goods do by no ancient Charter belong to the City of *Oxford*; nor can they produce any ſuch Charter antecedent to ours. They were always, as appears by a multitude of Records, heretofore claimed by the King, and were by the Sheriffs ſeiſed to his uſe. The Univerſity were not firſt intitled

intitled to them by the Charter of *Charles* 1. having enjoyed them long before the Date of that Grant, but by the Charter of *Hen.* 8. confirmed by the Statute of 13 *Eliz.* We did not therefore indeed lay any claim to them in the Composition under *Hen.* 6. because there was no reason, that we should challenge that, which we *then* had no right to. But the Interest of them being then vested in the King, was, as it lawfully might, by Charters of several succeeding Princes, transferred to the University.

2. It is not unusual in other Cases, that Felons Goods should be granted away from those that maintain the Prisoners. Nor ought the City, especially, to complain of their Expences in this kind, whose Prisoners chiefly subsist on the Alms of the University. However this is matter of Right, We insist on authentic Records, and Charters; and it is a great sign, that on their side the Records are deficient, when they have this Recourse to Argument.

IX. *The University doth pretend to have a Power to discommon Citizens at their pleasure, and to inhibit all priviledg'd Persons to have any Commerce or Trading with them, which they sometimes use, to the ruin of the Citizens and their Families.*

Answ. IX. It is here own'd, that the Citizens do wholly subsist by their trade with the University; and that the *ruine* of them and *their Families*, is the necessary consequence of the loss of it. This Consideration hath had so good an effect on the University, that it hath always inclin'd them to pity and moderation in the Exercise of *this power*; And it might be justly expected, that it should likewise have such influences on the Citizens; as might hinder them from opposing the just rights of that Body; on which they always heretofore were, and now confessedly are dependant. But if some of them shall still molest the University, and disturb our peace, and good government; We cannot possibly take a juster and milder method of procuring our own quiet; than by cutting off all Correspondence with our factious adversaries: This right of *Discommuning* then

then is a *reaſonable*; and, (as by many precedents can be prov'd) an *ancient* Right of the Univerſity, and exerciſed long before that Charter upon urgent occaſions; but withall ſo rarely practiſed, that thoſe who now complain of it, will hardly be able to remenber one ſingle inſtance of it. Nor ought the Towns-Men to complain of this, who have uſually made it the Condition of their Leaſes: that they ſhall not let their Houſes to a Scholar as an Under-Tenant, and ſhall never grind at any other than their Mill.

X. *By the ſaid Charter it is granted, that Scholars, their Servants, and the Servants of the Univerſity, ſhall not be forced to appear at Muſters, or contribute thereunto; and that they ſhall be diſcharged of Subſides, Reliefs, Impoſitions, and Contributions.*

Anſw. X. We owe not this Grant originally to *Charles* the Firſt, but derive it from Cuſtom, own'd and ſettled in Parliament, 18. *Ed.* 1. and ever ſince allowed, upon ſolemn Hearings, under Queen *Elizabeth* and King *James*. This is ſuch a reaſonable Priviledge, that all Forreign Univerſities enjoy it. Nor is there any ground left for the City's Complaint, ſince it is always provided, that thoſe Priviledged perſons, who exerciſe Merchandize in the City, and ſhare in the Profit, ſhould be equally chargeable with the City for ſuch Merchandize.

XI. *The Univerſity, by means of a Compoſition made ſhortly after the Conflict* 29° Edw. 3. *and confirmed by the ſaid Charter, do require the Maior and* 62 *Citizens with him, yearly upon* Scholaſticus-*Day* (*which is the* 10*th. day of* February) *to make an Oblation there upon the high Altar, of* 63 *Pence for the Souls of* 63 *Scholars ſlain in the time of King* Edward 3. *This being in the Original groſs Superſtition, is too great a Badg of Popery to be required in a Proteſtant Univerſity.*

Anſw. XI. The barbarous Murder of ſixty three innocent Scholars, which they here own, and term a Conflict, and the Plunder of the whole Univerſity drew a great and juſt Amercement on the Criminals. The City pretended they were not able to

pay

pay this Fine without their utter Ruine; and did humbly pray, and at last obtained from the University a Mitigation of it.

An annual payment of an hundred Marks was then accepted; and this, by the further favor of the University, was changed into a small yearly Acknowledgment. This Ceremony, according to the Custom of that Age, was not wholly free from Superstition; and was therefore by consent of both parties, under Queen *Elizabeth*, changed into a Sermon, a Communion and Offering. The Custom did not take its rise from any gross Superstition, unless it be so to make satisfaction for *Murder* and *Robbery*; and if the continuance of it still displeases them, they may put an end to it themselves, by discharging their Bonds.

XII. *By the said Charter it is granted, that Scholars, or Privileg'd Persons shall not be impleaded in the Courts of* Westminster, *for such things as the Chancellor hath cognizance of; and that they shall be dismissed from thence without pleading their Privilege, or paying their Fees, which doth often fall out to be a very great Oppression to the Officers and Ministers of Justice; for if upon demand of the Vice-Chancellor they do not discharge such Privileg'd Persons, the Vice-Chancellor, by colour of this Clause, doth imprison the Bayliff; as on the* 20th. *of* October *last he did on* Edward Adams, *a sworn Bayliff, for not discharging* Henry Wildgoose, *who was arrested at the Suit of the City, by a Writ issuing out of the Court of Common-Pleas; and by colour of the said Clause, if any Person sue a Privileg'd Man in any of the Courts of* Westminster, *the said Vice-Chancellor doth cite the Plaintiff into the Court of the University for breach of their Statutes, and doth condemn him in Expences for suing a Privileg'd Person out of the University.*

Answ. XII. It seems absolutely necessary, as well for the *quiet*, and *security* of the Scholars, as for the better maintaining of *discipline* among them, that their own Governors only should have an *immediate jurisdiction* over them. And therefore there is not any University *abroad*, where the members of it have not a right to be impleaded in their own *Forum* only and to be exempted from any forraign power. This University of *Oxford*, more

more particularly hath so long enjoy'd this *Priviledge*, that it is not possible to assign the date of the *Original grant*. For since we find the autority of our Court frequently own'd and allow'd under *Hen.* 3*d.* *Ed.* 2*d.* and *Ed.* 3*d.* We have reason to think that this power is as ancient, as the University it self. Our right to it then is so well founded on *reason* and immemorial Custom, that it is no wonder, if we find it anciently in the year books not only acknowledged by the Town, but always willingly own'd by the *Judges*, even before it was, as it is now, confirm'd by Act of Parliament. The Lord *Coke*, especially who is not usually a Friend to any other Courts, but those at *Westminster*, doth yet, according to the example of his Predecessors, make an Honourable mention of this Court; and gives that Statute the name of *Actus Benedictus*, that confirm'd it. The Procedures of it have always been within the bounds of their ancient Jurisdiction; and of this we need have no clearer evidence, than that the only Act of injustice here alleg'd, is that we discharge our own members; and arrest those, who deny our Autority and violate our right. The Citizens were certainly ill inform'd, when for a signal instance of our Exorbitances, they charge us only with the due exercise of that power; which, upon solemn hearings hath *twice at least*, been acknowledg'd at *Westminster*.

XIII. *By the said Charter it is Granted, that Priviledged Men shall have as much Liberty to Trade as the Freemen of the said City, and by color of this Grant, the said University do take upon them to set up Trades, and to License certain Persons whom they call Priviledg'd Persons, openly to use Trades, and to sell Merchandizes within the said City, and Suburbs by Retail, which is contrary to the ancient Charters, Customs, and Priviledges of the said City, and to certain Compositions and Agreements made between the said University and City.*

Answ. XIII. Priviledg'd Persons have so ancient a right to the Exercise of any Trade; that, their prescription to it commences before the oldest Charter to the City, and is sav'd by it. This right is allow'd in Parliament 18 *Ed.* 1. declar'd by expres words

words 14 *Hen.* 8. ratify'd by Statute under Qu. *Elizabeth*, and only more largely explain'd by *Car.* 1. Limits have since been put to this Priviledge; which the University have never transgress'd; nor have ever, as the Town uses to do, Pleaded their Ancient Rights in bar of the subsequent restrictions of it.

XIV. *Whereas by certain Compositions heretofore made between the said University and City, the Menial Servants of all Scholars, and all their other Servants taking Wages without Fraud or Deceit, are to enjoy the Priviledge of the University; the said University, upon pretence of latter Grants, have fraudulently, and with an intent to weaken the Government of the said City, granted colourable Priviledges to divers Members of the City; and upon pretence that they were become the under Groom, Gardiner, or Officer of some Colledge, have matriculated them, and whilst they have continued Members of the City, have administred unto them an Oath to the effect following*, viz. You shall swear, that you shall not attempt any Cause of yours before the Maior or Bayliffs of *Oxford*, neither shall you answer before any of them as your Judg, so long as you shall continue a Priviledg'd Person. So God, *&c. which in terms is repugnant to the Oath which every Freeman of the City doth take at the time of his admission into the Liberties of the said City; and particularly they have within the space of three Months last past, matriculated one* William Turton, *upon pretence that the said* William Turton *was Gardiner of* Exeter *Colledge: Whereas the said* William Turton *was, and yet is a Freeman of the said City, and doth continue to use the Trade of a Vintner, and obtained the Title of the said Office, only to avoid the bearing such Offices in the said City, as his Condition and Substance had made him capable of. Also one* Henry Wildgoose *a Freeman, and one of the Common-Council of the said City, being apprehensive that he should be chosen into the Office of Chamberlain of the said City, to avoid the same about two days before the Election for the said Office, did procure himself to be matriculated, upon pretence that he was a Groom to one Dr.* Irish, *although the said* Henry Wildgoose *did, and yet doth continue the*

Trade of a Painter, within the said City, and hath no further relation to the said Dr. Irish, *than to protect himself against the said City; and by colour of the said Matriculation, the said* Henry Wildgoose *being elected Chamberlain of the said City, did, and yet doth refuse to accept the said Office, and is protected in his Disobedience by the University, by which means other Citizens are encouraged to withdraw themselves from their Majesties Service in the said City.*

Answ. XIV. We have hitherto made good our Claim to these Rights and Priviledges; it remains that we clear our selves from the Charge of abusing them: We have given no colourable Priviledges to any Member of the City; but neither have nor could deny their just Rights to those that demand them. *Wildgoose*, as a Limner, was entitled to his Priviledge; the Right to it was vested in him by his Trade; Matriculation is only declaratory of that Right. Whoever will plead his Priviledge, must register his Name; and Men may lawfully forbear entry, till they have need of the Plea. His being Servant to Dr. *Irish* is a new Right to his Priviledge; but his former Title was not destroyed by the new one that is superinduced. The City surmise that he entred into this service, to decline an Office there; but he hath sworn, that they, in his Opinion, put the Office upon him, because he entered into this Service: So that here we have *his* Oath against *their* Suspicion; and which ever of the Assertions be true, certain it is, that the University cannot justly be blam'd for allowing him that Priviledge, which, according to their own Charters, and their Agreements with the Town, they could not lawfully deny him. *Wildgoose* being excluded by these Regulators, was not willing to return into the Company of those that excluded him; and therefore did now embrace the opportunity of demanding that Priviledge, which was long since due to him. However, that we may judge of the truth of these assertions, it is equally false that he is Groom to Dr. *Irish*; as that *Turton* is matriculated Gardiner to *Exeter Colledge*. *Turton* is a Vintner Priviledg'd by the University; and is entred as such; that he exercises

exercises a Trade still is the consequent of his *Licence*, that he bears no Office, is the result of his Priviledge; and these are such rights, as the University can justly give, and he, as a Priviledg'd Man, ought to enjoy. The Oath of Freemen is founded on their obligation to the City; and the force of it ceases, when their dependance determines: The University is above those mean designs, which this Pamphlet charges on them; They force no Man to be Priviledg'd, nor accept the price of their Priviledge; and, if the Citizens are so pleas'd, it would be an easie composition, that no Free-man should ever enjoy it.

2*dly*. We have no reason to think, That *Wildgoose* was guilty of a *Fraud*; because *we* have as yet receiv'd no proof against him. *However* if his guilt was admitted, it is very hard to imagine, how his crime can possibly affect *us*, and be made any part of the Charge against the *University*. If *he* had any unjustifiable design in procuring his Matriculation; is it probable, that he would acquaint the *Vice-Chan.* with it; or that the *Vice-Chan.* should know it without such notice? A private discourse is said to have pass'd between Mr. *Recorder* and *Wildgoose*, concerning a small Office in the Town; and shall the University be thought *parties* to the *Fraud* for not *hearing* it? If a man, upon the like designs, is entred a Clerk in the Common-Pleas; shall the *future* discovery of his *Fraudulent intentions* cast any reflexion on the honesty of the *Prothonotary*, or the integrity of the *Judges*? The Matriculation then of this Person cannot possibly be any crime in the University; and therefore the whole offence must be resolv'd into *our protection of him in his disobedience*. While his name remains in our Register, he is one of our members; and, as such, hath right to our *protection*; But if the *Fraud* shall be prov'd *to us* we are ready to alter the roll; and *by consequence* to deprive him of his Priviledge. We do not therefore justify any *Fraud*, because we know of none; and it is the duty, and interest of the City to take care, that we should be acquainted with it. This *Priviledge* was so far

from being granted, *pendente lite;* that even, before any *cause* of *action,* it was obtain'd; and therefore any *Fraudulent design* cannot in this Case be pretended to appear by a *notoriety* of the *Fact;* but is to be made out by those means only, which are not yet *offer'd* to us, the *Evidence* of the *Parties concern'd.* Till therefore *Wildgoose*'s offence be prov'd to the *Vice-Chancellor,* He cannot in justice alter the Register; and, as long as his name shall continue *there,* we cannot but think, with submission to *this house,* that he hath a just title to *all* the *Priviledges* of a *Matriculated Person.* For if one of *your* Honourable house shall by *Bribery* obtain an *Election,* and, after that, a *return;* and, before any Examination of his Case in the house, be *sued* in Westminster-Hall; the Judges undoubtedly *shall not* have *cognizance* of his *Crime,* nor can suffer his *Bribery* to be insisted on, as a barr to his *Priviledge.* Till the *return* be *amended* he is *actually* a *member* of your house; and consequently hath yet a right to those Priviledges which you *deservedly* enjoy. When the *Bribery* shall appear to your Committee, *They* certainly *will,* and they *only can* deprive him of any *place* in Parliament, and so *necessarily* devest him of the *Priviledge,* that *attends* it. This house is undoubtedly sensible, that this Case is exactly parallel to ours; we are so far from being Patrons of Fraud, that we desire an opportunity of punishing it; we require nothing of the City, but to add *proof* to their *surmizes;* and then to receive *justice,* as they *ought,* from *our hands.*

We have been longer in the answer to this Objection, because the Citizens have every where laid the greatest weight on it; and because it seems requisite fully to convince this house; that we are not more *careful* in *maintaining* our *just rights* than we are *cautious* in *not abusing* our *power.*

Thus have we sufficiently prov'd, that those controverted Rights were not originally grounded on a late Charter, but on ancient Customs, and Grants, most of them being expressly, and all

all heretofore implicitly confirm'd by Parliament. And now it is time to enquire what credit is to be given to thoſe who have charged Novelty on thoſe Grants, which are as ancient as our Conſtitution, and are the Inheritances of our Fore-Fathers. They are ſuch Priviledges, as our Univerſity never did, becauſe they could not want; the abſolute neceſſity of them was the occaſion of their ancient Uſage: and ſince *That* hath given us a Title to them, we may reaſonably hope, that this Honourable Houſe will now preſerve them to us, as well in favor to Learning, as in reſpect to Juſtice.

Thus have we fully recited and anſwer'd all the Articles of the City; and now we think it leſs nauſeous to anſwer, than to repeat their Rhetorick; which hath no other Character of Truth, than that of Plaineſs and Simplicity: We cannot own, that Card. *Woolſey* and Arch-Biſhop *Laud* procur'd Charters abſolutely new for us; but in this we are oblig'd to them, that they took care to have our Ancient Charters explain'd: For, ſince we are to deal with unquiet Men, an Explanation of a former Grant, is an equal favor to a new one. If the Univerſity had Priviledges, and declin'd the uſe of them, it is ſuch an inſtance of their Moderation, as we wiſh and may wiſh to ſee copied by the City. We have no deſign on the City; The Preſent Act can give us no advantage over them, and if we had purpos'd, that it ſhould have done ſo; we would hardly have added the Proviſo. For whatever may ſeem to thoſe Gentlemen, the Force of the Clauſe is ſo evident, to all Men of Senſe and Law; that, in reference to the City, it wholly diſables and deſtroys the Bill.

We are not concern'd to accuſe the Citizens, but ſince ſome of them have been ready in ſurrendring their Charters, and have ſince been forward Regulators; we hope that they will take ſome more agreeable Standard to meaſure their Deſerts by, than the Merits of the Univerſity. And now laſtly, if theſe Priviledges have been anciently ours, tranſmitted to us from our Pre-

Predeceſſors, affirm'd by former Kings, ratified by Statutes, and generouſly defended by us in the moſt dangerous times: We have reaſon to hope, that our undoubted Rights will by this Honorable Houſe be preſerv'd to us, both againſt the Encroachment of an Arbitrary Power, and of an Unreaſonable City.

FINIS.